

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	
)	
MILTON H BROWN)	CASE NO. 11-30382-KRH
)	
YVONNE J BROWN)	
Debtors.)	Chapter 13
)	
)	
_____)	

OBJECTION TO CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN

COMES NOW the United States of America, by counsel and on behalf of its agency, the Internal Revenue Service ("United States" or "Service") and hereby objects to confirmation of the debtors' Chapter 13 plan as follows:

1. The debtors filed a petition for relief under Chapter 13 of the Bankruptcy Code on January 20, 2011.
2. The Service has a claim for pre-petition tax liabilities in the amount of \$14,656.45. Of this amount, \$6,706.92 is claimed as an unsecured priority claim and \$7,949.53 is claimed as an unsecured general claim. See amended Claim No. 5 filed with the Court on or around March 11, 2011, which has not been the subject of an objection to claim.

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3. The pre-petition priority claim is estimated in part because the Service does not have a record of the debtors having filed a U.S. Individual Income Tax Return (Form 1040) for the tax period ending December 31, 2010.
4. Until the tax return is filed, the Service cannot file a complete amended claim that reflects the debtors' true pre-petition tax liabilities. Moreover, the debtors have not complied with 11 U.S.C. §§ 1308 and 1325(a)(9) and the plan should not be confirmed until the tax return is filed in accordance with these provisions.
5. Further, without being able to determine if the proposed plan provides for payment of all claims entitled to priority under 11 U.S.C. § 507 and complies with 11 U.S.C. §§ 1322(a)(2) and 1325(a)(1), the plan should not be confirmed. The tax return should be filed with the Internal Revenue Service, Insolvency Unit, 400 North 8th Street, Box # 76, Room 898, Richmond, VA 23219.

6. Also, as set forth in the schedules, the value of the debtors' assets exceeds the sum of the debtors' secured and unsecured debt. As such, the debtors' Chapter 13 plan, which was filed on February 11, 2011, does not adequately provide for either the priority claim or the unsecured general claim of the Service in that the plan fails to provide for full payment along with post-petition interest on these claims in accordance with 11 U.S.C. §§ 1325(a)(4) and 726. Consequently, the plan should not be confirmed. See In re Hardy, 755 F.2d 75 (6th Cir. 1985); In re Martin, 17 B.R. 924 (N.D. Ill. 1982); and In re Williams, 3 B.R. 728 (Bankr. N.D. Ill. 1980).

WHEREFORE, the United States objects to confirmation of the debtors' Chapter 13 plan.

DATED this 7th day of April, 2011.

Respectfully submitted,

NEIL H. MACBRIDE
United States Attorney

By: /s/ Aaron D. Gregory
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **OBECTION TO CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN** was caused to be served by United States mail, postage prepaid, this 7th day of April, 2011, properly addressed to the following person:

The Debtors:

Milton H Brown
Yvonne J Brown
204 Fulham Circle
Richmond, VA 23227

I further certify that copies of the foregoing will be caused to be served this 7th day of April, 2011, via ECF e-mail at the address of record on the ECF system on the following:

Jason Meyer Krumbein
jason@krumbein.com
Attorney for the Debtors

Robert E. Hyman
Chapter 13 Trustee

/s/ Aaron D. Gregory
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